

position on the duration of the contract for GN was sustained, sets a rate that clearly advantages an existing player in the market, MFS, and provides GN with little or no margin for putting its business strategies to work. That type of barrier to market entry seems considerably higher than is consistent with the Congressional intent of promoting competition. Additionally, by making the contract length identical to that in the MFS IA, the 'pick and choose' effect on the services offered by BA to GN, as noted above, is avoided. For those reasons, GN should be entitled to a contract with a duration identical to that which is set forth in the MFS accord, 19 days shy of three years from the date of execution.

Decision III. D

The duration of the Interconnection Agreement between BA and GN should be nineteen days less than three years from the date of execution.

E. ARE CALLS TO INTERNET SERVICE PROVIDERS ELIGIBLE FOR RECIPROCAL COMPENSATION UNDER THE MFS INTERCONNECTION AGREEMENT?

There are two matters that must be resolved to make a recommendation on this issue. The first is whether calls to ISP's are included in the types of calls for which the MFS IA requires reciprocal compensation. The second is whether calls to ISP's are local calls.

In regard to the first matter, the MFS IA calls for reciprocal compensation for all residential and business calls. BA contends that it never contemplated calls to ISP's when it negotiated the arrangement, and that fact is evidenced by the absence of any reference to ISP's in the document. The record is silent on what MFS had in mind at the time. The problem with BA's contention, however, is that the document's silence on ISP's does not simply mean that calls to ISP's are excluded from reciprocal compensation requirements. It might also be concluded that the terms residential and business customers are so broad that they cover all calls made. Indeed, it is hard to imagine many calls to ISP's that do not fall within that definition. Moreover, it seems implausible that in 1996 two very sophisticated actors in the telecommunications market, such as BA and MFS, could have negotiated an IA without either party having given any thought to calls to the Internet, which was already being widely used at that time and whose growth potential for telecommunications was hardly a secret in the industry. It is plausible that BA did not contemplate the possibility that some CLEC's might focus their marketing on ISP's and thus create the sorts of revenue imbalances that BA complains of, but that has little or no relevance to the matter at hand. The definition of the types of calls set forth in the IA is sufficiently broad that it must be construed as including calls to ISP's.

The second matter that must be resolved is whether or not calls to ISP's are local calls. It seems apparent from the testimony offered in this matter, that calls to ISP's can be local calls. It seems equally possible that they may not be. The only way to make a determination of whether they are local or not is on a call specific basis. For purposes of the matter at hand, however,

it will suffice to note that it is impossible to make a generic statement as to the physical realities of such calls. BA asserts that the FCC is looking into this very question, and suggests suspending judgement until the FCC has the opportunity to decide the matter. Given that there is no basis in the record for determining when, if ever, the FCC will render judgement on the matter, it seems pointless to not proceed to make a determination that will allow the parties to proceed. The fact that calls to ISP's can be local calls seems dispositive of the matter for purposes of the Recommended Interim Final Decision. That is because, local calls are the subject of the MFS IA. To the extent that calls to ISP's are not local in nature, or whether such calls are the result of misassignment of NXX's, or other such matters that BA complains of, those are matters to be looked into in any action BA may take to remedy what it believes to be a breach of the contract. Such fears are simply not relevant to the question of whether local calls to ISP's are entitled to the reciprocal compensation provisions of the MFS IA.

It bears mentioning that many of the issues that BA has raised in the matter at bar appear to emerge from BA's fears that GN will breach the terms of the MFS IA, as BA understands them. Indeed, it seems clear from Mr. Masoner's testimony, that BA believes that MFS itself may be in breach. While the Arbitrator is not unsympathetic to BA's assertion that it should not be compelled to offer contractual terms that are so broad that it could give rise to activities that it believes constitute breach, those fears cannot be allowed to control the outcome of this proceeding. There are two reasons for this. The first is obvious. Nothing in this decision will deprive BA of any remedies it has available to it for breach of contract. It may seek whatever remedies it desires whenever it concludes that a breach has occurred. The second reason is policy based. The 1996 Act envisioned removing unnecessary barriers to entry in the local exchange market in order to hasten the onset of competition. Efforts to perfect contractual language to better define the expectations of the incumbent can also be viewed as the narrowing of the business options available to new market entrants. Such a result would clearly be counterproductive in terms of creating the type of robust competition that was envisioned by the Congress when it passed the 1996 Act.

Decision III. E

Calls to Internet Service Providers are eligible for reciprocal compensation under the MFS Interconnection Agreement.

F. ARE THE APPLICABLE RECIPROCAL COMPENSATION RATES THOSE SET FORTH IN THE MFS INTERCONNECTION AGREEMENT, OR THE GENERIC RATES ESTABLISHED BY THE BPU IN DOCKET NO. TX95120631?

The intent of the Congress in enacting the 1996 Act was, in regard to local exchange service, to promote competition and market mechanisms. For that reason, as suggested in the post-hearing brief of GN, there is a hierarchy of rate setting that has evolved. There are three ways in which reciprocal compensation for call termination can be determined under the law, by negotiation, by regulation, and by arbitration. The mechanism that is most derived from the market place, is, of course, negotiation. As a result, it is

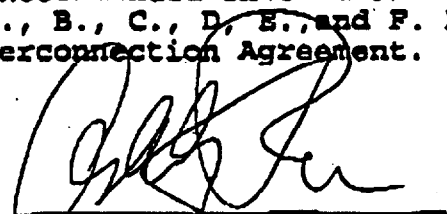
entitled to a position at the top of the hierarchy. The second level is occupied by the de jure authorities, jurisdictional regulatory agencies, and the bottom is occupied by arbitration. In terms of playing cards, negotiation trumps regulation, and regulation trumps arbitration. The issue raised herein is whether the rates negotiated by BA and MFS, including the rates for reciprocal compensation, will apply to GN being that GN is "opting into" the fully negotiated agreement.

Decision III. F.

The reciprocal compensation rates applicable to GN and BA if GN opts into the MFS Interconnection Agreement, are, for the duration of the time that the terms therein are applicable between BA and GN, those set forth in that agreement.

IV. CONCLUSION

For the reasons set forth above it is the Recommended Interim Final Decision of the Arbitrator that Decisions III. A., B., C., D., E., and F. be adopted by the parties for purposes of their Interconnection Agreement.


Ashley C. Brown



COPY

State of New Jersey
BOARD OF PUBLIC UTILITIES
TWO GATEWAY CENTER
NEWARK, NJ 07102

CHRISTINE TODD WHITMAN
Governor

November 4, 1998

MARK W. MUSSER, ESQ.
Chief of Regulatory Policy/Board Secretary

TEL: (973) 648-3426
FAX: (973) 648-2409

VIA FACSIMILE AND REGULAR MAIL

Barry Abrams, Esq.
Bell Atlantic-New Jersey, Inc.
540 Broad Street
Newark, New Jersey 07101

Christopher W. Savage, Esq.
Cole, Raywid & Braverman, L.L.P.
1919 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

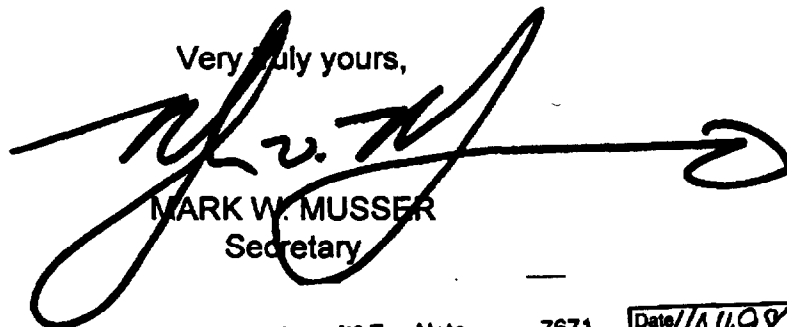
RE: BA-NJ/GLOBAL NAPS ARBITRATION:
MOTION OF GLOBAL NAPS, INC. DOCKET NO. TO98070426

Dear Messrs. Abrams and Savage:

I write in connection with the above captioned matter, to remind Bell Atlantic-New Jersey, Inc. ("BA-NJ") and Global Naps, Inc. ("GNAPS") of the provisions of the Board Order concerning the filing of interconnection agreements after an arbitrator issues a decision. My office reads the Order to require interconnection agreements to be filed within five (5) days from the date of the arbitrator's decision.

My staff's review of this matter and the record of this matter indicate that an interconnection agreement was already due to be filed, but has not been filed. You are so advised and you are also advised of my office's expectation that the formal signed arbitration agreement shall be filed before the close of business on Thursday, November 5, 1998.

Very truly yours,



MARK W. MUSSER
Secretary

Post-It® Fax Note	7671	Date/10498	# of pages 1
To	C. SAVAGE	From	MUSSEER
Co./Dept.		Co.	202
Phone #		Phone #	452 0067
Fax #		Fax #	

Bell Atlantic - New Jersey
540 Broad Street
Room 2000
Newark, NJ 07101
973 649-2656 Fax 973 481-2660
E-Mail: barry.s.abrams@BellAtlantic.com

Barry S. Abrams
Vice President, General Counsel & Secretary
Legal Department

COPY



November 10, 1998

Via Facsimile & Regular Mail

Mark W. Musser, Secretary
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

**RE: I/M/O the Petition of Global NAPs, Inc. for Arbitration of
Interconnection Rates, Terms, Conditions, and Related
Arrangements with Bell Atlantic-New Jersey, Inc.
Docket No. TO98070426**

Dear Secretary Musser:

The Thursday evening, November 5, 1998, letter from counsel for Global NAPs ("GNAP") contains obvious factual misstatements concerning the inability of the parties to file a signed interconnection agreement. Many of these errors are addressed in the Opposition filed by Bell Atlantic-New Jersey ("BA-NJ") on November 5, 1998. Simply stated, GNAP refuses to sign an interconnection agreement that acknowledges the FCC's conclusion that traffic to Internet Service Providers -- which constitutes all or nearly all of GNAP's service -- is jurisdictionally interstate and not, therefore, within the jurisdiction of the Arbitrator to address.¹ GNAP also refuses to acknowledge the FCC's statement that it will address reciprocal compensation issues and therefore refuses to provide in the interconnection agreement that the FCC's resolution of reciprocal compensation for Internet traffic will govern payment of reciprocal compensation under the interconnection agreement. The arbitrator stated that: "[g]iven that there is no basis in the record for determining when, if ever, the FCC will render judgment on the matter, it seems pointless to not proceed to make a determination that will allow the parties to proceed."² But now the FCC has rendered that judgment.³ GNAP's position is tantamount to declaring that

¹ Memorandum Opinion and Order, GTE Telephone, GTOC Tariff No. 1, GTOC Transmittal No. 1148, CC Docket No. 98-79, FCC 98-292 (October 30, 1998). ("FCC Order")

² Recommended Interim Final Decision, p. 9.

³ GNAP attempts to draw a distinction between the FCC Order that was released on October 30 and the second Order which it stated would be released "next week". The October 30 order disposes of the key issue here, viz., that Internet traffic is interstate. Since the FCC soundly rejected the "two call" hypothesis, the interstate nature of the calls at issue here follows, *a fortiori*. The FCC's October 30 decision makes it clear that these calls are interstate, will be interstate and always were interstate. The

the entire regulatory process affecting Internet Service Providers stopped on October 26, 1998 with the issuance of the Recommended Interim Final Decision and that this Board should turn a blind eye to an intervening event that is dispositive of the central issue in this proceeding. That position is patently unreasonable.

BA-NJ has offered two forms of signed interconnection agreement to GNAP to execute. Those agreements fully reflect provisions of the Recommended Interim Final Decision issued on October 26, 1998, and the key intervening event of the FCC Order of October 30, 1998. Both forms of interconnection agreement, executed on behalf of BA-NJ, were provided to you on November 5, 1998 in response to your letter of November 4, 1998. GNAP has refused to execute either form of interconnection agreement.

Mr. Savage's November 5, 1998 letter contends that "GNAPs cannot agree — and is under no obligation to agree — to the 'wait until GNAPs is certified' condition." (p. 2.) GNAP contends that provisions of the MFS Agreement which recite that "MFS 'is or will be a LEC...fits GNAPs' situation to a 'T'." (p. 3.) To the contrary, MFS has been providing residential and business local exchange service and delivering real traffic originated on its network. We know with absolute certainty that GNAP provides no local exchange service in other jurisdictions in which Bell Atlantic has entered into interconnection agreements; we know that its expressed business plan is to serve ISPs one-way requirements; and we know that since this issue was first raised here in New Jersey, GNAP has said not one word to defend its position that it is a legitimate exchange provider. In eleven months in Massachusetts, GNAP has sent Bell Atlantic - Massachusetts 35 hours of traffic. Most of that, we believe is its own administrative calling from its own offices. In contrast, Bell Atlantic - Massachusetts has sent GNAP the equivalent of approximately 150 years of traffic. GNAP is clearly not in the same situation as MFS.

The fact that GNAP's service is focused on the ISPs' one-way requirements is graphically illustrated in GNAP's November 3, 1998 Petition to Intervene in the Maine PUC's investigation of Brooks Fiber Communications' use of central office ("NXX") codes.⁴ In its Petition, GNAP states that "[m]ost of GNAPs' customers are, at present, Internet Service Providers ("ISPs")" (p. 1) and argues that assignment of NXX codes to locations where the ISP has no physical point of presence ("POP") to permit calls to ISPs to be treated as a local call is of greater importance "than the risk of accelerating the date by which Maine will require a second NPA code" (p. 3.) From this it's clear that

only thing remaining in the upcoming second Order is the treatment of reciprocal compensation arrangements for those CLECs who have already been feeding at the Internet reciprocal compensation trough. By procedural sleight of hand and bluster, GNAP is trying to put themselves in the position as if they were already in business here in New Jersey and need to be weaned from the rich diet that it has been enjoying in other states. That is patently not the case and this Board should not countenance any such fiction.

⁴ Investigation Into Use of Central Office Codes (NXXs) by New England fiber Communications L.L.C. d/b/a Brooks Fiber Communications, Docket No. 98-758, Maine PUC. (Attachment 1)

the misuse of scarce telephone numbers is actually part of GNAP's business plan. As the FCC reinforces the fact that the traffic GNAP carries is interstate, not local, and as New Jersey faces its own sequence of painful area code issues, the public interest demands that the Board puts a stop to GNAP's brand of arrogant and self-serving waste of local numbers.

GNAP's request that the Board issue an Order "directing BA-NJ to sign the agreement with GNAPs attached to GNAPs' November 2, 1998 filing with the Board" or declare that BA-NJ is "deemed ... to have entered into that agreement" must be rejected. On at least three previous occasions parties to arbitration proceedings before the Board have each submitted forms of interconnection agreements which each believed reflected the decision of the Arbitrator.⁵ On two occasions, AT&T and Cablevision, clarification of the Arbitrator's decision was obtained. That is the current situation in this arbitration - both parties have submitted forms of an interconnection agreement. Neither party is able to agree to the form submitted by the other. GNAP cannot be allowed to dictate an agreement to which BA-NJ has asserted legitimate objections and, most importantly, ignores the key conclusions of the FCC's October 30, 1998 Order.

Finally, no consideration should be accorded GNAP's request for attorney fees and costs in connection with the submission of its version of an interconnection agreement. Each party is entitled to preserve and protect its rights. Despite GNAP's mischaracterizations, BA-NJ's actions have been nothing other than a legitimate and good faith effort to do just that.

Very truly yours,



BSA:dmp

Attachment

cc: Chris Savage
William Rooney

⁵ Request for Arbitration filed by AT&T, (Docket No. TO96070519) and by BA-NJ, (Docket No. TO96070523); Petition for Arbitration filed by MCIMetro, (Docket No. TO96080621); Petition for Arbitration filed by Cablevision Lightpath - NJ (Docket No. TO98060343).

ATTACHMENT 1

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Public Utilities Commission Investigation)
Into Use of Central Office Codes (NXXs)) Docket No. 98-758
by New England Fiber Communications L.L.C.)
d/b/a Brooks Fiber Communications)

PETITION TO INTERVENE LATE

Global NAPs, Inc ("GNAPs"), by its undersigned counsel, petitions to intervene in this proceeding late pursuant to the Commission's Orders in this Investigation and Chapter 10 §§720, 721 and 722 of the Commission's Rules of Practice. GNAPs seeks leave to file late as it only recently became aware of the proceedings. The Notice of Investigation is dated October 6, 1998 and the deadline for intervention was set for October 13, 1998, one week later. GNAPs respectfully submits that if its motion is allowed at this time will not cause prejudice or delay the proceedings.

1. Global NAPs, Inc.
10 Merrymount Road
Quincy, MA 02169
(617) 507-5111
2. GNAPs' interests are directly affected by this investigation. GNAPs is one of the fastest growing Competitive Local Exchange Carriers ("CLECs") in New England. GNAPs presently provides service in Massachusetts and New York and intends to offer services in Maine. Most of GNAPs' customers are, at present, Internet Service Providers ("ISPs"). The ISPs' ability to provide internet access to end users throughout Maine is significant.

affected by the availability of telecommunications services which allow end users to reach their ISP by utilizing a local call which does not require the ISP to establish a physical point of presence ("POP") in each of Maine's local exchange areas.

3. GNAPs contests the factual statement contained in the fifth Proposed Conclusion that New England Fiber Communications L.L.C. d/b/a Brooks Fiber Communications' ("Brooks") customers were not paying for costs incurred by the Incumbent Local Exchange Carriers ("ILECs") for providing interexchange services. Brooks customers were not obtaining interexchange services from Brooks, they were obtaining local exchange services pursuant to Brooks' local exchange tariff.
4. GNAPs contests the statement in the sixth Proposed Conclusion that the traffic to Brooks 52 non-Portland area codes terminates in Brooks Portland area exchange. Termination is a term of art. Throughout the industry it is understood that a call terminates when the call is connected to the called number. The location of the call termination for rating and routing purposes is deemed to be the local exchange area associated with the rate center to which the number is assigned in the LERG.
5. GNAPs contends and will prove that prohibiting the use of NXX codes to allow end users to reach ISPs by means of a local call will have a substantial negative impact upon competition between ISPs, on the availability of Internet access on a widespread basis, and on competition for local exchange services. If NXX codes cannot be used to allow end users throughout the state to reach ISPs as a local call, then either the end user will have to pay toll charges to reach their ISPs, which would make access to the internet prohibitively expensive, or the ISPs will have to locate a POP in every Bell Atlantic local

calling area. There is no doubt ISPs will locate POPs in cities such as Portland and Augusta thereby permitting Maine residents in these cities access to the internet, though less efficiently than at present and, therefore, at greater expense. It is far less likely that ISPs will locate POPs in less populated areas, thereby cutting off inexpensive access to the internet by residents of rural areas. The use of NXX codes to permit statewide low cost access to the internet through CLECs like Brooks is the great equalizer. It allows anyone in the state to have inexpensive access to the internet which, in turn, provides access to the worldwide flow of information and commerce. It permits children in rural school districts to have the same access to the internet's educational benefits as children in populated areas, such as Portland. GNAPs submits that the consequences of a regulatory change that denies inexpensive access to the internet by rural residents are far worse than the risk of accelerating the date by which Maine will require a second NPA code and the hypothetical risk of "erosion of the distinction between local calling ... and toll calling that is embodied in the ILECs terms and conditions and regulatory policy."

6. GNAPs understands that if its Petition to intervene in this proceeding is granted, it will have full rights of a party. GNAPs expects to raise additional competitive and public interest concerns at that time.

7. For the forgoing reasons, GNAPs requests that the Commission grant its petition to intervene.

The undersigned certifies that he has served a copy of the foregoing by first class mail, postage prepaid, to the persons identified on the appended service list.

Respectfully submitted,

William J. Rooney, Jr.
General Counsel
Global NAPs, Inc.
Ten Merrymount Rd.
Quincy, MA 02169
Tel. (617) 507-5111
Fax (617) 507-5211
E-Mail wrooney@gnaps.com

Date: November 3, 1998

COPY

COLE, RAYWID & BRAVERMAN, L.L.P.

ATTORNEYS AT LAW

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ALAN RAYWID
(1930-1991)

OF COUNSEL
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November 12, 1998

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SUSAN WHELAN WESTFALL
THERESA A. ZETERBERG
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MARK S. KRISTIANSEN*
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*ADMITTED IN MARYLAND ONLY
*ADMITTED IN VIRGINIA ONLY

Mark W. Musser, Secretary
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

**Re: Bell Atlantic-New Jersey/Global NAPs Arbitration: Response To
Bell Atlantic's November 10 Filing**

Dear Mr. Musser:

When all the dust settles, there appear to be two areas where GNAPs and Bell Atlantic disagree with regard to how to implement the arbitration order.

The first issue is the treatment of dial-up calls to ISPs. The inconsistency in Bell Atlantic's approach is clear. Bell Atlantic states that the FCC has jurisdiction over such calls, but then disregards what the FCC has said about them.

In the May 1997 *Access Charge Reform Order*, the FCC reaffirmed its policy that ISPs may connect to the network as business end users, in order to receive local calls from their customers.¹ In August 1998, the 8th Circuit affirmed, stating that for the FCC to direct that result (ISPs connect as business end users to receive local

¹ Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, and End User Common Line Charges, *First Report and Order*, 12 FCC Rcd 15982 (1997) at ¶ 342 & n.502.

Mr. Mark Musser
November 12, 1998
Page -2-

calls) was a reasonable exercise of FCC authority.² Even if the FCC has authority over this issue, Bell Atlantic ignores the fact that the FCC has passed responsibility for it back to the states.

For this reason it was not even "news" that the FCC held that dedicated links to ISPs were jurisdictionally interstate, much less significant news.³ The only real news from the *GTE ADSL Order* was that the FCC took pains to state that its analysis "does not, and cannot, determine whether reciprocal compensation is owed" on dial-up calls to ISPs.⁴ This was significant because there had been speculation that the FCC would use the *GTE ADSL Order* to say something about reciprocal compensation. The FCC chose not to do so; but Bell Atlantic ignores this FCC statement as well.

Where this leaves us is exactly where we were when the arbitrator issued his decision regarding dial-up calls to ISPs. The FCC believes this traffic is interstate, and may at some point in the future try to exercise its jurisdiction to modify the current regime regarding reciprocal compensation. But the FCC has not yet done so, and the arbitrator correctly found that the current regime is that calls to ISPs can be local calls.

Any doubt about the fact that the FCC is perfectly content to leave this issue with the states (at least for now) was laid to rest by Chairman Kennard's recent remarks at the NARUC convention in Orlando, nearly two weeks *after* the issuance of the *GTE ADSL Order*:

I know that a large number of states have already weighed in on the issue of reciprocal compensation between local carriers handling Internet traffic. I believe that those states have been right to decide that issue when it has been presented to them and I do not believe it is the role of the FCC to interfere with those state decisions in any way.

Parties should be held to the terms of their agreements, and if a state has decided that a reciprocal compensation agreement provides for the payment of compensation for

² *Southwestern Bell v. FCC*, 153 F.3d 523, 541-43 & n.9 (8th Cir. 1998).

³ GTE Telephone Operating Cos., GTOC Tariff No. 1, GTOC Transmittal No. 1148, *Memorandum Opinion and Order*, CC Docket No. 98-79 (released October 30, 1998).

⁴ *GTE ADSL Order* at ¶ 2.

Mr. Mark Musser
November 12, 1998
Page -3-

Internet-bound traffic, then that agreement and that decision by the state must be honored.

<http://www.fcc.gov/commissioners/kennard/speeches.html>. Clearly, the FCC does not believe that the states lack the authority to review or consider this question and has no intention of disturbing state arbitration decisions such as the one at issue between Bell Atlantic and GNAPs. For this reason, the language in Bell Atlantic's proposed agreement that suggests that the arbitrator's ruling on this question has been superseded by the FCC is legally wrong, and is therefore unacceptable to GNAPs.

The second issue is whether Bell Atlantic may delay implementing the agreement until GNAPs is certified as a CLEC.⁵ GNAPs agrees that it may not provide intrastate services prior to receiving its certificate, so it is not inappropriate for Bell Atlantic to clarify that intrastate traffic will not be exchanged between the parties prior to that time. But the MFS Agreement does not contemplate that CLEC certification is not be required prior to any steps to implement the agreement. This matters because there is a fair amount of preparatory activity that will need to occur before traffic actually flows between Bell Atlantic and GNAPs. There is no possible reason, other than a desire to delay GNAPs' entry into the market, for Bell Atlantic to refuse to undertake these activities prior to GNAPs' certification.

In this regard, GNAPs notes yet another inconsistency in Bell Atlantic's position: if end-user-to-ISP traffic is irrevocably interstate, as Bell Atlantic asserts, then when GNAPs serves ISPs it is providing an interstate services over which this Board lacks jurisdiction. But if that is true, then GNAPs does not need certification by this Board to offer that service, so lack of certification provides no basis for delay. As noted above, however, the FCC has held over and again that ISPs connect to the network using intrastate-tariffed local exchange business lines, so — as GNAPs understands the law — the fact that it plans to serve ISPs (among others) both requires that it be certified and proves that it will, indeed, be providing local exchange service.

In its November 2, 1998 filing with the Board on this issue, GNAPs attached a copy of an agreement executed by GNAPs (but not Bell Atlantic) that, as GNAPs sees it, properly implements the arbitration order. Bell Atlantic then filed two agreements in slightly different form, both of which are substantively erroneous on the

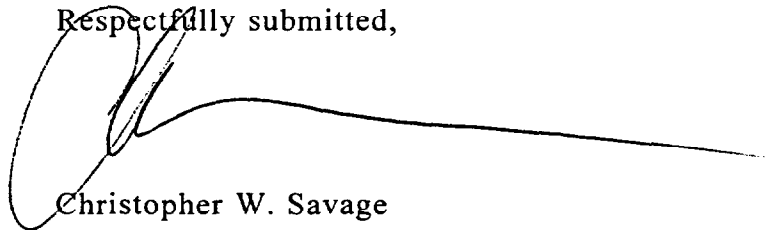
⁵ Bell's discussion of this point is peppered with some of its apparent objections to GNAPs' status as a CLEC (GNAPs serves ISPs, who only get incoming traffic; GNAPs allegedly "misuses" NXX codes). As to those points, GNAPs respectfully refers the Board to GNAPs' November 10, 1998 filing in the certification docket.

Mr. Mark Musser
November 12, 1998
Page -4-

points just discussed. To reflect the possibility that the Board prefers the form of Bell Atlantic's Agreement, attached to this letter is a modified form of Bell Atlantic's document, executed by GNAPs, for the Board's review and consideration (Attachment 1). Also attached is a "blacklined" version of Bell Atlantic's document showing the changes that GNAPs has made.

Please do not hesitate to contact me if you have any questions regarding this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Chris Savage', with a long horizontal flourish extending to the right.

Christopher W. Savage

cc: Barry Abrams

Attachment 1:
Executed Version of BA-Form Agreement (corrected)

**INTERCONNECTION AGREEMENT UNDER SECTIONS 251 AND 252 OF THE
TELECOMMUNICATIONS ACT OF 1996**

Dated as of November 2, 1998

by and between

BELL ATLANTIC - NEW JERSEY, INC.

and

GLOBAL NAPS, INC.

INTERCONNECTION AGREEMENT UNDER SECTIONS 251 AND 252 OF THE
TELECOMMUNICATIONS ACT OF 1996

This Interconnection Agreement (this "Agreement"), under Sections 251 and 252 of the Telecommunications Act of 1996 (the "Act"), is effective as of the 2nd day of November, 1998 (the "Effective Date"), by and between Bell Atlantic-New Jersey, Inc., a New Jersey corporation with offices at 540 Broad Street, Newark, New Jersey 07101, and Global Naps, Inc. ("GNAPS"), a Delaware corporation with offices at 10 Merrymount Road, Quincy, MA 02169 (each a "Party" and, collectively, the "Parties").

WHEREAS, GNAPS has requested that BA make available to GNAPS Interconnection, service and unbundled Network Elements upon the same terms and conditions as provided in the Interconnection Agreement (and amendments thereto) between MFS Intelenet of New Jersey, Inc. and BA, dated as of July 16, 1996 (Revised as of July 29, 1997), for the State of New Jersey, approved by the Board under Section 252 of the Act (the "Separate Agreement") and attached as Appendix 1 hereto; and

WHEREAS, an Arbitrator appointed by the New Jersey Board of Public Utilities has issued a Recommended Interim Final Decision in Docket No. TO98070426 ("Recommended Decision"), containing resolutions of disputed issues between the Parties arising from GNAPS' request; and

WHEREAS, BA has undertaken to make the terms and conditions of the Separate Agreement available to GNAPS hereby only because, and to the extent, required by the Recommended Decision and Section 252(i) of the Act;

NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, GNAPS and BA hereby agree as follows:

1.0 Incorporation of Appendices by Reference

1.1 Except as expressly stated herein, the terms and conditions of the Separate Agreement (as set forth in Appendix 1 hereto), as it is in effect on the date hereof after giving effect to operation of law, and of the other Appendices hereto are incorporated by reference in their entirety herein and form an integral part of this Agreement.

1.2 References in Appendix 1 hereto to MFS Intelenet of New Jersey, Inc. or to MFS shall for purposes of this Agreement be deemed to refer to GNAPS.

1.3 References in Appendix 1 hereto to the "Effective Date", the date of effectiveness thereof and like provisions shall for purposes of this Agreement be

deemed to refer to the date first written above. Each other specific date referred to in Appendix 1 shall be deemed to be recalculated to preserve the same interval from the Effective Date as in the Separate Agreement.

1.4 All usage data to be provided pursuant to subsections 6.3.8 and 6.3.9 of Appendix 1 hereto shall be sent to the following address on behalf of GNAPS:

Global NAPS, Inc.
10 Merrymount Road
Quincy, Massachusetts 02169
Attn: Mr. Richard Gangi, Treasurer

1.5 Section 7.4.1 of Appendix 1 hereto is hereby deleted in its entirety and replaced with revised and restated Section 7.4.1 as set forth in Appendix 2 hereto.

1.6 Notwithstanding Section 27.5 of Appendix 1 hereto and in lieu of the performance reports set forth hereto, at such time as BA makes available the Performance Monitoring Reports set forth in the Memorandum Opinion and Order adopted by the FCC on August 14, 1997 (the "FCC Merger Order") to other Telecommunications Carriers purchasing Interconnection from BAN, BA shall provide GNAPS with the Performance Monitoring Reports applicable to GNAPS in accordance with the requirements of said FCC Merger Order.

1.7 All notices, affidavits, exemption-certificates or other communications to GNAPS under Section 29.6.6 of Appendix 1 hereto shall be sent to the following address:

Global NAPS, Inc.
Attn: Mr. Frank Gangi
10 Merrymount Road
Quincy, Massachusetts 02169
Facsimile: (617) 507-5217

1.8 [Reserved]

1.9 All notices, affidavits, exemption-certificates or other communications to BA under Section 29.6.6 of Appendix 1 hereto shall be sent to the following address:

Tax Administration
Bell Atlantic Corporation
1095 Avenue of the Americas
Room 3109
New York, New York 10036

1.10 Notices to GNAPS under Section 29.10 of Appendix 1 hereto shall be sent to the following address:

Global NAPS, Inc.
Attn: Mr. Frank Gangi
10 Merrymount Road
Quincy, Massachusetts 02169
Facsimile: (617) 507-5217

with a copy to:

William Rooney, General Counsel
Global NAPS, Inc.
10 Merrymount Road
Quincy, Massachusetts 02169
Facsimile: (617) 507-5211

1.11 Notices to BA under Section 29.10 of Appendix 1 hereto shall be sent to the following address:

President - Telecom Industry Services
Bell Atlantic Corporation
1095 Avenue of the Americas
40th Floor
New York, New York 10036
Facsimile: (212) 597-2585

with a copy to:

Bell Atlantic Network Services, Inc.
Attn: Mr. Jack H. White,
Associate General Counsel
1320 N. Court House Road, 8th Floor
Arlington, Virginia 22201
(703) 974-0744

with a copy to:

Bell Atlantic - New Jersey, Inc.
Vice President & General Counsel
540 Broad Street
Newark, New Jersey 07101
Facsimile: (201) 482-8466

2.0 Clarifications

2.1 BA's obligation to make available to GNAPS any interconnection, service, or network element hereunder is effective only to the extent that, and only for as long as, BA is required to do so pursuant to any valid final order of the New Jersey Board of Public Utilities ("Board") issued in connection with the Recommended Interim Final Decision of the Arbitrator in Docket No. TO98070426 ("Recommended Decision"), or such other explicit legal requirement as may subsequently be imposed. BA expressly reserves the right to appeal or otherwise seek to overturn the Recommended Decision by any lawful means. At such time as the Board or a court reverses or overturns or the FCC preempts the Recommended Decision (or any Board order issued in connection therewith), BA may terminate this Agreement or any portion thereof on written notice to GNAPS. The entry into, filing and performance by BA of this Agreement does not in any way constitute a waiver by BA of any of the rights and remedies it may have to seek review of any of the provisions of the Separate Agreement, or to petition the Board, other administrative body or court for reconsideration or reversal of any determination made by any of them, or to seek review in any way of any portion of this Agreement in connection with GNAPS' election under Section 252(i) of the Act. If BA terminates this Agreement or any portion thereof as provided in this Section 2.1, the Parties shall undertake commercially reasonable efforts to minimize the disruption and inconvenience to their respective customers caused by such termination by allowing a commercially reasonable time for appropriate alternative serving arrangements for such customers to be established, if need be.

2.2 The Parties acknowledge that the MFS Agreement requires payment of reciprocal compensation only on "Local Traffic," as defined therein, and does not specifically address the payment of reciprocal compensation for calls to Internet Service Providers ("ISPs"). The Parties agree that, according to the Recommended Decision, calls to ISPs which otherwise meet the contractual definition of "Local Traffic" are eligible for reciprocal compensation under the MFS Agreement and, therefore, under this GNAPS Agreement. However, the Parties also acknowledge that subsequent to the issuance of the Recommended Decision the Federal Communications Commission ("FCC") issued a ruling that specifically stated that the analysis and discussion contained therein had no bearing on the question reciprocal compensation for dial-up calls to ISPs, but also indicated that a ruling on that question would be forthcoming. No such ruling has been issued, however. The Parties agree that, when and if such a ruling is issued, the Parties will promptly meet to discuss the impact of such ruling on this Agreement (if any), as required by Section 28 of the MFS Agreement, and that any disputes regarding any such impact shall be resolved in accordance with the dispute resolution procedures of the MFS Agreement.

2.3 Notwithstanding any provision of this Agreement, the BA shall have no obligation to send jurisdictionally intrastate traffic to, or accept jurisdictionally intrastate traffic from, GNAPS under this Agreement until such time as GNAPS has obtained a Certificate of Public Convenience and Necessity (CPCN) or such other

Commission authorization as may be required by law as a condition for conducting business in the State of New Jersey as a local exchange carrier.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of this 2nd day of November, 1998.

GLOBAL NAPS, INC.

BELL ATLANTIC-NEW JERSEY, INC.

By: William T. Rowley

By: _____

Printed: William T. Rowley *

Printed: _____

Title: Vice President / General Counsel

Title: Vice-President - Interconnection
Services Policy & Planning

^e By: Christyler Savage,
Attorney in fact for GNATS.

APPENDIX 2

7.4 911/E911 Arrangements

7.4.1 Where this subsection 7.4 or other portions of this Agreement refer to or describe 911/E911 functions, services, or facilities as BA functions, services, or facilities, the Parties agree that, in New Jersey, some such functions, services, and facilities are provided, owned, and controlled not by BA but by the State of New Jersey, and that GNAPS will look to the State of New Jersey, and not BA, and make arrangements with the State of New Jersey, and not BA, for the provision of such functions, services, and facilities. BA will cooperate with GNAPS in identifying all such functions, services, and facilities that are provided, owned, or controlled by the State of New Jersey and in identifying the contact points and procedures BA believes will facilitate GNAPS's promptly securing such arrangements with the State of New Jersey as may be necessary for the effective provision of 911/E911 service to Customers of GNAPS.

Attachment 2:
Blacklined Version of BA Proposed Agreement

**INTERCONNECTION AGREEMENT UNDER SECTIONS 251 AND 252 OF THE
TELECOMMUNICATIONS ACT OF 1996**

Dated as of November 2, 1998

by and between

BELL ATLANTIC - NEW JERSEY, INC.

and

GLOBAL NAPS, INC.

**INTERCONNECTION AGREEMENT UNDER SECTIONS 251 AND 252 OF THE
TELECOMMUNICATIONS ACT OF 1996**

This Interconnection Agreement (this "Agreement"), under Sections 251 and 252 of the Telecommunications Act of 1996 (the "Act"), is effective as of the 2nd day of November, 1998 (the "Effective Date"), by and between Bell Atlantic-New Jersey, Inc., a New Jersey corporation with offices at 540 Broad Street, Newark, New Jersey 07101, and Global Naps, Inc. ("GNAPS"), a Delaware corporation with offices at 10 Merrymount Road, Quincy, MA 02169 (each a "Party" and, collectively, the "Parties").

WHEREAS, GNAPS has requested that BA make available to GNAPS Interconnection, service and unbundled Network Elements upon the same terms and conditions as provided in the Interconnection Agreement (and amendments thereto) between MFS Intelenet of New Jersey, Inc. and BA, dated as of July 16, 1996 (Revised as of July 29, 1997), for the State of New Jersey, approved by the Board under Section 252 of the Act (the "Separate Agreement") and attached as Appendix 1 hereto; and

WHEREAS, an Arbitrator appointed by the New Jersey Board of Public Utilities has issued a Recommended Interim Final Decision in Docket No. TO98070426 ("Recommended Decision"), ~~purporting to resolve~~ containing resolutions of disputed issues between the Parties arising from GNAPS' request; and

WHEREAS, BA has undertaken to make the terms and conditions of the Separate Agreement available to GNAPS hereby only because, and to the extent, required by the Recommended Decision and Section 252(i) of the Act;

NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, GNAPS and BA hereby agree as follows:

1.0 Incorporation of Appendices by Reference

1.1 Except as expressly stated herein, the terms and conditions of the Separate Agreement (as set forth in Appendix 1 hereto), as it is in effect on the date hereof after giving effect to operation of law, and of the other Appendices hereto are incorporated by reference in their entirety herein and form an integral part of this Agreement.

1.2 References in Appendix 1 hereto to MFS Intelenet of New Jersey, Inc. or to MFS shall for purposes of this Agreement be deemed to refer to GNAPS.

1.3 References in Appendix 1 hereto to the "Effective Date", the date of effectiveness thereof and like provisions shall for purposes of this Agreement be

deemed to refer to the date first written above. Each other specific date referred to in Appendix 1 shall be deemed to be recalculated to preserve the same interval from the Effective Date as in the Separate Agreement.

1.4 All usage data to be provided pursuant to subsections 6.3.8 and 6.3.9 of Appendix 1 hereto shall be sent to the following address on behalf of GNAPS:

Global NAPS, Inc.
10 Merrymount Road
Quincy, Massachusetts 02169
Attn: Mr. Richard Gangi, Treasurer

1.5 Section 7.4.1 of Appendix 1 hereto is hereby deleted in its entirety and replaced with revised and restated Section 7.4.1 as set forth in Appendix 2 hereto.

1.6 Notwithstanding Section 27.5 of Appendix 1 hereto and in lieu of the performance reports set forth hereto, at such time as BA makes available the Performance Monitoring Reports set forth in the Memorandum Opinion and Order adopted by the FCC on August 14, 1997 (the "FCC Merger Order") to other Telecommunications Carriers purchasing Interconnection from BAN, BA shall provide GNAPS with the Performance Monitoring Reports applicable to GNAPS in accordance with the requirements of said FCC Merger Order.

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Global NAPS, Inc.
Attn: Mr. Frank Gangi
10 Merrymount Road
Quincy, Massachusetts 02169
Facsimile: (617) 507-5217

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New York, New York 10036

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Quincy, Massachusetts 02169
Facsimile: (617) 507-5217

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William Rooney, General Counsel
Global NAPS, Inc.
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2.0 Clarifications

2.1 BA's obligation to make available to GNAPS any interconnection, service, or network element hereunder is effective only to the extent that, and only for as long as, BA is required to do so pursuant to any valid final order of the New Jersey Board of Public Utilities ("Board") issued in connection with the Recommended Interim Final Decision of the Arbitrator in Docket No. TO98070426 ("Recommended Decision"), or such other explicit legal requirement as may subsequently be imposed. BA expressly reserves the right to appeal or otherwise seek to overturn the Recommended Decision by any lawful means. At such time as the Board or a court reverses or overturns or the FCC preempts the Recommended Decision (or any Board order issued in connection therewith), BA may terminate this Agreement or any portion thereof on written notice to GNAPS. The entry into, filing and performance by BA of this Agreement does not in any way constitute a waiver by BA of any of the rights and remedies it may have to seek review of any of the provisions of the Separate Agreement, or to petition the Board, other administrative body or court for reconsideration or reversal of any determination made by any of them, or to seek review in any way of any portion of this Agreement in connection with GNAPS' election under Section 252(i) of the Act. **If BA terminates this Agreement or any portion thereof as provided in this Section 2.1, the Parties shall undertake commercially reasonable efforts to minimize the disruption and inconvenience to their respective customers caused by such termination by allowing a commercially reasonable time for appropriate alternative serving arrangements for such customers to be established, if need be.**

2.2 The Parties acknowledge that the MFS Agreement requires payment of reciprocal compensation only on "Local Traffic," as defined therein, and does not specifically require address the payment of reciprocal compensation for calls to Internet Service Providers ("ISPs"). The Parties agree that, according to the Recommended Decision, calls to ISPs which otherwise meet the contractual definition of "Local Traffic" are eligible for reciprocal compensation under the MFS Agreement and, therefore, under this GNAPS Agreement. However, the Parties also acknowledge that subsequent to the issuance of the Recommended Decision the Federal Communications Commission ("FCC") issued a ruling that specifically stated that the analysis and discussion contained therein had no bearing on the question reciprocal compensation for dial-up calls to ISPs, but also indicated that a ruling on that question would be forthcoming within a week. No such ruling relating to reciprocal compensation, however, has been forthcoming from the FCC. The Parties agree that, when such a ruling is issued, the Parties will promptly meet to discuss the impact of such ruling on this Agreement (if any), as required by Section 28 of the MFS Agreement, and that any disputes regarding any such impact shall be resolved in accordance with the dispute resolution procedures of the MFS Agreement. ~~determined that a call to an ISP is a single end-to-end communication and that a telecommunications service providing end-users with access to ISPs is therefore jurisdictionally interstate. The Parties therefore agree that, notwithstanding the Recommended Decision, no reciprocal compensation will be payable under the GNAPS Agreement on calls to ISPs unless, and only to the extent,~~

~~specifically mandated by the FCC. The Parties agree that if the FCC or a court of competent jurisdiction determines that, in the absence of agreement of the Parties, a Terminating Party does not have a right under Applicable Law to payment by the Originating Party of Reciprocal Compensation for ISP Traffic, payment of Reciprocal Compensation for ISP Traffic under this Agreement shall terminate as of the effective date of such determination. After the effective date of such determination: (a) compensation, if any, for transport and termination of ISP Traffic shall be as required by Applicable Law; (b) each Party shall have the right to request a governmental entity of appropriate jurisdiction to determine what compensation, if any, for transport and termination of ISP Traffic is required by Applicable Law; and (c) any such compliance with the foregoing, BA may, in its discretion, deposit any reciprocal compensation payments into an escrow account.~~

2.3 Notwithstanding any provision of this Agreement, the BA shall have no obligation to perform send jurisdictionally intrastate traffic to, or accept jurisdictionally intrastate traffic from, GNAPS under this Agreement until such time as GNAPS has obtained a Certificate of Public Convenience and Necessity (CPCN) or such other Commission authorization as may be required by law as a condition for conducting business in the State of New Jersey as a local exchange carrier.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of this 2nd day of November, 1998.

GLOBAL NAPS, INC.

BELL ATLANTIC-NEW JERSEY, INC.

By: _____

By: _____

Printed: _____

Printed: _____

Title: _____

Title: Vice-President - Interconnection
Services Policy & Planning

APPENDIX 2

7.4 911/E911 Arrangements

7.4.1 Where this subsection 7.4 or other portions of this Agreement refer to or describe 911/E911 functions, services, or facilities as BA functions, services, or facilities, the Parties agree that, in New Jersey, some such functions, services, and facilities are provided, owned, and controlled not by BA but by the State of New Jersey, and that GNAPS will look to the State of New Jersey, and not BA, and make arrangements with the State of New Jersey, and not BA, for the provision of such functions, services, and facilities. BA will cooperate with GNAPS in identifying all such functions, services, and facilities that are provided, owned, or controlled by the State of New Jersey and in identifying the contact points and procedures BA believes will facilitate GNAPS's promptly securing such arrangements with the State of New Jersey as may be necessary for the effective provision of 911/E911 service to Customers of GNAPS.

CERTIFICATE OF SERVICE

I, Linda M. Blair, hereby certify that on this 5th day of May, 1999, I caused a copy of the foregoing Petition of Global NAPS, Inc. to be sent via messenger (*), or by first class mail, postage prepaid, to the following:

*Ms. Magalie Roman Salas
Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-A325
Washington, D.C. 20554

Ms. Janice Miles
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W., Room 5-327
Washington, D.C. 20554

Ms. Carol Matthey
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W., Room 5-B125
Washington, D.C. 20554

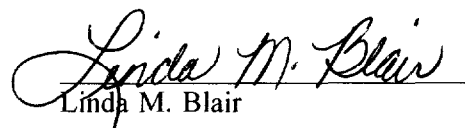
Mr. Ed Krachmer
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W., Room A316
Washington, D.C. 20554

Ms. Tamra Preiss
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W., Room 5-A232
Washington, D.C. 20554

Mr. Larry Strickling
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W., Room 5-C450 Portal
Washington, D.C. 20554

Mr. Barry S. Abrams
Vice President, General Counsel & Secretary
Legal Department
Bell Atlantic - New Jersey
540 Broad Street, Room 2000
Newark, NJ 07101

Mark W. Musser, Secretary
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102


Linda M. Blair